S/N 09/614,631 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	HILGREN ET AL.	Examiner:	J. PAK
Serial No.:	09/614,631	Group Art Unit:	1653
Filed:	JULY 12, 2000	Docket No.:	163.1382US01
Title:	METHOD AND COMPOSITION FOR INHIBITION OF MICROBIAL GROWTH IN AQUEOUS FOOD TRANSPORT AND PROCESS STREAMS		

CERTIFICATE UNDER 37 CFR 1.6(d):
I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on February 9, 2004.
By: Name: Sheryl A. Boudoin

DECLARATION UNDER 37 CFR § 1.131

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, John D. Hilgren, declare and state the following:

1. I am an inventor of the subject matter of the patent application identified above and an employee of Ecolab, Inc., the assignee of the patent application identified above.

2. I understand that the Examiner has cited PCT patent publication WO 99/51095 to Hei et al. (the WO publication) as prior art in prosecution of the application identified above. I understand that the WO publication patent was published on October 14, 1999.

3. I further understand that the filing date of the present patent application Serial No. 09/614,631 is July 12, 2000.

4. I state that before the date of the WO publication, before October 14, 1999, my coinventors and I invented the subject matter described and claimed in the patent application identified above.

5. The claims of the patent application identified above relate to compositions including:

about 35 to about 45 weight-% acetic acid, about 5 to about 15 weight-% octanoic acid, about 3 to about 8 weight-% hydrogen peroxide, about 8 to about 16 weight-% peroxyacetic acid, about 1 to about 5 weight-% peroxyoctanoic acid, and about 0.1 to about 2 weight-% chelating agent;

about 40 weight-% acetic acid, about 10 weight-% octanoic acid, about 5 weight-% hydrogen peroxide, about 12 weight-% peroxyacetic acid, about 3 weight-% peroxyoctanoic acid, and about 0.6 weight-% chelating agent;

about 10 to about 150 ppm acetic acid, about 5 to about 40 ppm octanoic acid, about 4 to about 20 ppm hydrogen peroxide, about 5 to about 50 ppm peroxyacetic acid, about 2 to about 25 ppm peroxyoctanoic acid, and about 0.2 to about 2.5 ppm chelating agent;

about 133 ppm acetic acid, about 33 ppm octanoic acid, about 17 ppm hydrogen peroxide, about 40 ppm peroxyacetic acid, about 10 ppm peroxyoctanoic acid, and about 2 ppm chelating agent;

about 50 to about 60 weight-% acetic acid, about 10 to about 20 weight-% octanoic acid, about 5 to about 15 weight-% hydrogen peroxide, and about 0.3 to about 1 weight-% chelating agent; or

about 54 weight-% acetic acid, about 14 weight-% octanoic acid, about 10 weight-% hydrogen peroxide, and about 0.6 weight-% chelating agent;

Each claimed composition also has at least about 1 part by weight of peroxyoctanoic acid for each about 5 parts of peroxyacetic acid.

The present patent application includes at page 15 several tables describing embodiments of the claimed compositions. Two of the tables describe concentrate and use compositions including:

Chemical	Wt-%	ppm
Acetic Acid	40	133
Hydrogen Peroxide	5	17
HEDP	0.6	2
Octanoic Acid	10	33
Peroxyacetic Acid	12	40
Peroxyoctanoic Acid	3	10

One of the tables describes raw materials that can be used to make the concentrate composition described above. These raw materials include:

Raw Material	Weight %
Glacial Acetic Acid	54
Hydrogen Peroxide, 35%	30
HEDP, 60%	1
Octanoic Acid, 95%	15

6. During the research and development leading to the claimed compositions, and before October 14, 1999, my coinventors and I made several compositions meeting the limitations of the claims of the present application and including the compositions described in the tables in paragraph 5 above.

7. Accompanying Exhibit A describes several use compositions that meet the ratio limitation of the present claims and that can be made from concentrates according to the present invention. These include Formulas B, C, D, and E. The contents of these formulas can be found at page 2 of Exhibit A. Page 3 of Exhibit A describes the antimicrobial activity of these formulas. The report included as Exhibit A was prepared before October 14, 1999.

8. Accompanying Exhibit B reports studies of compositions that meet the limitations of the present claims and including the compositions described in the Tables in paragraph 5 above. In Exhibit B, the initial, concentrate, and use compositions described in the tables in paragraph 5 above are referred to as "Falcon 15 O". The composition called "Falcon 15 AE" also meets the limitations of the present claims. The contents of these formulas can be found at page 2 of Exhibit B. Pages 3-4 of Exhibit B describe the antimicrobial activity of these formulas. The report included as Exhibit B was prepared before October 14, 1999.

9. The evidence presented in Exhibits A and B indicates that, before October 14, 1999, my coinventors and I invented the subject matter described and claimed in the patent application identified above.

10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like are punishable by fine r imprisonment, or both, under section 1001 of Title 18 of the United States

Code, and that such willful false statements may jeopardize the validity f this application or any patent issuing thereon.

John D. Hilgren